

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
Attorney Docket No. 007412.00070

In re U.S. Patent Application of	)	
Taylor, et al.	)	
	)	Group Art Unit: 2424
Application No. 10/599,498	)	
	)	Examiner: Shepard, Justin E.
Filed: 09/29/2006	)	
	)	Confirmation No. 9858
For: Methods and system for	)	
provisioning a set-top box	)	

**APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705**

Mail Stop Patent Ext.  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicant respectfully applies and/or petitions for reconsideration under 35 U.S.C. § 154(b) and 37 C.F.R. §1.705(b) of the patent term adjustment indicated on the Notice of Allowance ("Notice") for the above-identified application.

The Notice indicates a term adjustment of 0 days. However, Applicant respectfully submits that such a determination is not correct under 37 C.F.R. 1.702-1.705 and that the proper term adjustment in this case should be calculated as the sum of (1) the number of days after 14 months of initial filing that it took for the first office action to be mailed (*see* 35 U.S.C. § 154(b)(1)(A), hereafter "A Delay") PLUS; (2) the number of days of pendency of the application beyond three years (*see* 35 U.S.C. § 154(b)(1)(B), hereafter "B Delay"); LESS (3) any calendar days where the periods of A Delay and B Delay overlap; and (4) applicant's delay.

**Statement of Pertinent Facts**

1. The application was filed on September 29, 2006.
2. The application completed the requirements of 35 U.S.C. 371(c) on October 5, 2006.
3. Fourteen (14) months after the completion of the 35 U.S.C. 371(c) requirements December 5, 2007.
4. The first office action was mailed August 27, 2008.
5. The date three years after filing was September 29, 2009.
6. The application will issue as a patent after May 17, 2010.
7. The above-captioned application is not subject to a terminal disclaimer.
8. Applicant is believed to be due a total patent term adjustment of at least 266 days (see remarks below for detailed explanation).

### **Remarks**

The 0 days of Patent Term Adjustment (PTA) indicated on the Notice of Allowance ignores 37 C.F.R. 1.703(a), i.e., the number of days due to failure of the USPTO to issue a first office action within fourteen months of the filing date (or, in this case, the 35 U.S.C. 371(c) completion date).

Applicant calculates the A Delay under 37 C.F.R. 1.703(a) as 266 days covering the time from December 5, 2007, to August 27, 2008 due to the failure of the USPTO to issue a first office action within fourteen months of the filing date (or, in this case the 35 U.S.C. 371(c) completion date). Applicant calculates the B Delay under 37 C.F.R. 1.703(b) as 0 days, in agreement with PTO calculations. Because there is no B delay, Applicant calculates no days of overlap of A Delay and B Delay.

In total, Applicant believes it is entitled to a PTA of 266 days in A Delays, plus 0 days in B Delays. Accordingly, Applicant is entitled to a PTA of at least 266 days.

Thus, the Applicant hereby requests that the PTA be corrected from 0 days by at least an additional 266 days, to a total of at least 266 days.

The Office is authorized to charge any additional fee or reimburse any overpayment for this paper to our Deposit Account No. 19-0733.

Respectfully submitted,

Date: May 17, 2010

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